

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

THOMAS A. WEBER,

Plaintiff,

v.

TIME WARNER, INC., *et al.*,

Defendants.

Case No. C05-1706L

ORDER DENYING MOTION  
FOR A PROTECTIVE ORDER

This matter comes before the Court on defendants' motion for a protective order. (Dkt. #47). Defendants seek a protective order on the following topics:

(1) rescheduling the deposition of . . . Defendant Cross . . . ; (2) preventing the publication and dissemination of any videotaped deposition or deposition transcript beyond parties and counsel of record in this case; (3) preventing production of tax and personal financial records as unduly burdensome and not reasonably calculated to lead to the discovery of admissible evidence absent a hearing to show cause why all relevant information is not available through provision of royalty statements to be provided; (4) preventing publication and dissemination of copyrighted, proprietary materials, including master film footage of Defendant David Cross and relating to the CDs and DVDs at issue in this case.

Defendants' Motion at pp. 1-2.

Defendants' counsel states that he attempted to contact plaintiff prior to filing the motion, but "had no success to date." Certification of Randolph I. Gordon (Dkt. #47-3). Because counsel does not describe his attempt(s), it is unclear whether defendants made a good faith effort to confer as required, or if plaintiff willfully refused to confer. Compliance with Local

1 Rule 37 is not a mere technical formality; it is a substantive requirement that must be fulfilled  
2 prior to filing a discovery motion. See Fed. R. Civ. P. 26(c); Local Rule 37(a)(2)(A).

3 Also, it does not appear that this is an agreed motion. After defendants filed their motion,  
4 they filed a “note” stating that defendants’ counsel conferred with plaintiff, and plaintiff had  
5 stated in writing, “A stipulated protective order as you propose is fine.” (Dkt. #50).  
6 Defendants, however, did not attach a copy of the writing or file a stipulated protective order.  
7 Plaintiff then filed a “notice” stating that the parties agreed to reschedule Mr. Cross’s deposition,  
8 so the motion for a protective order was moot. Plaintiff’s notice did not address the remaining  
9 issues in defendants’ motion, and it does not indicate agreement to the proposed protective  
10 order.

11 Accordingly, defendants’ motion for a protective order is DENIED. The Court expresses  
12 no opinion on the merits of the motion. If defendants continue to seek a protective order, they  
13 must confer in good faith with plaintiff then file a motion if necessary, or the parties may file a  
14 stipulation.

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16 DATED this 17th day of January, 2006.

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19 Robert S. Lasnik  
20 United States District Judge  
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